

**STATE OF RHODE ISLAND
BEFORE THE RHODE ISLAND ETHICS COMMISSION**

In re: John E. Fleming, Jr.

Complaint No. 2006-5

ORDER

This matter having been heard before the Rhode Island Ethics Commission on December 12, 2006 pursuant to Commission Regulation 1011, and the Commission having considered the Complaint herein, the arguments of counsel, the findings of fact and admissions, the Respondent's mitigating factors and the proposed Information Resolution and Settlement, which is incorporated by reference herein, it is hereby

ORDERED, ADJUDGED AND DECREED

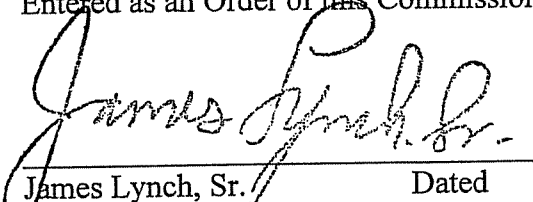
THAT, the Commission approves the Informal Resolution and Settlement as submitted; and

THAT, the Commission incorporates by reference herein its findings of fact and conclusions of law as those set forth in the Informal Resolution and Settlement; and

THAT, the Respondent violated Commission Regulation 5011 (b), Prohibited Activities-Transactions with Subordinates, of the Rhode Island Code of Ethics in Government; and

THAT, the Respondent is ordered to pay a civil penalty in the amount of Five Hundred (\$500) Dollars.

Entered as an Order of this Commission,


James Lynch, Sr. 12/21/06
Chairperson Dated

**STATE OF RHODE ISLAND
BEFORE THE RHODE ISLAND ETHICS COMMISSION**

**In re: John E. Fleming, Jr.,
Respondent**

Complaint No. 2006-5

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INFORMAL RESOLUTION AND SETTLEMENT

The Respondent, John E. Fleming, Jr., and the Rhode Island Ethics Commission hereby agree to a resolution of the above-referenced matters as follows:

I. FINDINGS OF FACT AND ADMISSIONS

A. Solicitation of North Providence Municipal Employees

1. A. Ralph Mollis (hereinafter "Mayor Mollis") was elected to the office of Mayor of the Town of North Providence in November 1996 and has served in said capacity at all times hereto relevant.

2. In January 1997, Mayor Mollis appointed the Respondent to the position of Chief of Staff in the Town of North Providence. The Respondent has served in said capacity at all times hereto relevant.

3. As Chief of Staff, the Respondent's duties involve oversight of daily Town operations under Mayor Mollis' supervision. The Respondent's official duties and responsibilities are not specifically addressed by the North Providence Town Charter.

4. The Respondent also serves as the Assistant Director of Public Safety, having been appointed to that position by Mayor Mollis in 1997. In said capacity, the Respondent has oversight of the Police and Fire Departments and Division of Inspections in the absence of the Mayor, who serves as Public Safety Commissioner.

5. Mayor Mollis was a candidate for the state elective office of Secretary of State in the November 2006 general election.

6. The Respondent and Ernest Carlucci served as co-chairmen of the Mollis for Secretary of State Campaign (hereinafter the "Mollis Campaign" or "Campaign").

7. On or about June 10, 2006, the Mollis Campaign mailed correspondence to one thousand four hundred sixty-eight (1,468) individuals requesting contributions to Friends of A. Ralph Mollis. The correspondence was sent to individuals who had either contributed to Mayor Mollis' past political campaigns or who had specifically requested to be included on a fundraising list.

8. The correspondence, authored by Mr. Carlucci, was signed by the Respondent and Mr. Carlucci in their capacity as Co-Chairmen of the Campaign.

9. The contents of the correspondence were read to Mayor Mollis prior to its mailing and the Mayor authorized its use by the Campaign.

10. Included in the mailing along with the correspondence was one (1) ticket to a fundraiser to be held for Mayor Mollis at the Metacomet Country Club in East Providence on June 29, 2006. The price per ticket was \$125.00. The mailing occurred three (3) to four (4) weeks prior to the scheduled campaign fundraiser.

11. Among the individuals to whom the solicitation was mailed were one hundred thirty-two (132) municipal employees of the Town of North Providence, exclusive of North Providence School Department employees.

12. Among the one hundred thirty-two (132) municipal employees to whom the solicitation was mailed were individuals employed by the following North

Providence municipal departments: Animal Control (1); Board of Canvassers (1); Building Inspector (3); Building & Planning (2); Crime Prevention (1); Emergency Management (1); Finance (1); Fire (36); Health & Welfare (1); Legal (5); Library (1); Municipal Court (2); Police (37); Public Works (19); Recreation (2); Recycling (1); Tax Assessor (1); Town Clerk (2) and Town Hall (15).

13. On June 28, 2006, one (1) day prior to the scheduled fundraiser, Mayor Mollis' opponent in the November 2006 election, Guillaume de Ramel, filed the instant Complaint with the Ethics Commission.

14. The Respondent and Mr. Carlucci estimate that between thirty (30) and forty (40) municipal employees who received the June 2006 solicitation made a contribution in response to the solicitation. The exact number of contributors is unknown because the Campaign, at Mayor Mollis' direction, immediately began returning all contributions received from said municipal employees, including those it had not yet processed, but did not keep a record of the checks returned.

15. The State of Rhode Island Board of Election's campaign finance records evince that on July 14, 2006 the Campaign issued refunds to fifteen (15) North Providence municipal employees, in the total amount of three thousand two hundred fifty dollars (\$3,250). Said refunds reflect campaign contributions which had been previously accepted and deposited by the Campaign.

16. Mr. Carlucci personally returned those campaign contribution checks that the Campaign had received, but not yet deposited, from North Providence municipal employees who had received the June 2006 solicitation and/or their spouses.

17. By Campaign correspondence dated July 21, 2006, Mr. Carlucci contacted an estimated four (4) to five (5) additional North Providence municipal employees, with whom he had not been able to make personal contact, and returned the remaining campaign contributions via United States mail.

18. Subsequently, five (5) municipal employees who received the June 2006 solicitation and whose campaign contributions were refunded by the Campaign subsequently made contributions during the period from August 3, 2006 through October 26, 2006. These contributions were not solicited by Mayor Mollis, the Respondent and/or the Campaign.

19. The spouse of one (1) municipal employee who received the June 2006 solicitation subsequently contributed to the Campaign in his name alone after his original contribution was returned by the Campaign. This contribution was not solicited by Mayor Mollis, the Respondent or the Campaign.

20. Seven (7) municipal employees who received the June 2006 solicitation, but did not respond thereto, subsequently made a contribution to the Campaign during the period from August 3, 2006 through October 26, 2006. These contributions were not solicited by Mayor Mollis, the Respondent or the Campaign.

I. CONCLUSIONS OF LAW AND SETTLEMENT

A. Solicitation of North Providence Municipal Employees

1. The Commission finds that the Respondent, Chief of Staff to the Mayor of the Town of North Providence, is a municipal appointed official and/or municipal employee subject to the Code of Ethics pursuant to R.I. Gen. Laws §§ 36-14-4(2) and 36-14-4(3).

2. The Respondent does not contest that the Commission has sufficient evidence with which the Commission could find that, by his June 2006 solicitation of North Providence municipal employees for contributions to the Mollis for Secretary of State Campaign, the Respondent, Chief of Staff to the Mayor of the Town of North Providence, a municipal appointed official and/or municipal employee, violated Commission Regulation 5011(b), Prohibited Activities- Transactions with Subordinates.

C. Mitigating Factors

In mitigation of the conduct detailed above, the Respondent submits the following:

1. Respondent has had no previous complaints of violations of the Code of Ethics.

2. Speaking in mitigation and not in defense of his actions, Respondent states that he did not intentionally violate the Code of Ethics. While he was generally aware of the Ethics Commission regulation in this matter prohibiting solicitation of town employees, he failed to recognize the mailing as problematic because he saw the mailing as one to past contributors without considering the fact that a small percentage of these contributors were town employees.

3. That upon realizing Campaign's error, he immediately returned the contributions made by town employees in response to the solicitation.

4. Respondent has fully cooperated with Commission staff in the investigation and resolution of this matter.

D. Settlement

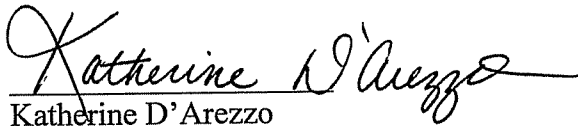
The Respondent agrees that, pursuant to the above Findings of Fact and Conclusions of Law, the Prosecution will recommend, pursuant to R.I. Gen. Laws § 36-14-13(d), the imposition of a civil penalty of \$500.00. The Respondent reserves the right to argue for a lesser penalty or the imposition of no penalty. The above terms represent the full and complete Informal Resolution and Settlement for Complaint No. 2006-5.

Dated:

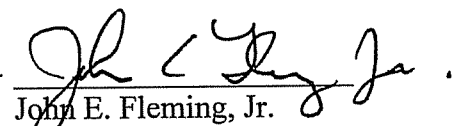
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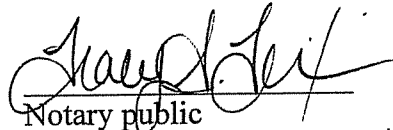


Katherine D'Arezzo
Commission Prosecutor



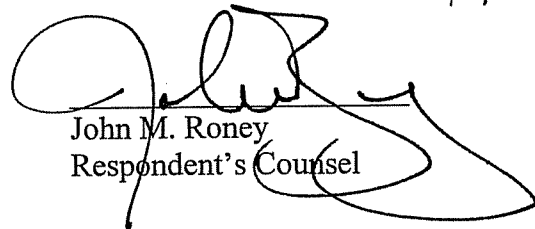
John E. Fleming, Jr.
Respondent

Subscribed to and sworn before me
this 12th day of December, 2006.



Notary public

My Commission Expires: 4/2/2008



John M. Roney
Respondent's Counsel